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**Human rights situation in Palestine and other occupied Arab territories**

# Written statement* submitted by the Arab Association for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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# The Silencing of Civil Society in Israel and Its Impact on the Palestinian Arab Minority

1. The Arab Association for Human Rights (HRA) is greatly troubled by the recent escalation of incitement and repressive measures against civil society in Israel. Not only does this threaten the freedom of speech and association, but it also serves to delegitimize and disenfranchise the Palestinian Arab minority, exacerbating tensions and undermining democratic aspirations in the region.

2. Expressions of dissent, especially by Palestinian Arab citizens, have always been marginalized in Israel, but today an atmosphere of paranoia and hostility has further silenced the tremendous work of Palestinian Arab civil society. The shrinking of civil society space is an obstacle to peace, basic democratic principles, and the full realization of human dignity and freedom.

*Legislative Background*

3. Current and pending Israeli legislation restrict or penalize the expressive content of civil society groups and activists. The limitations imposed by these laws serve primarily to stigmatize and to silence the human rights concerns of the Palestinian Arab minority:

(a) Amended Budget Foundations Law (2011) ("Nakba Law"): The Minister of Finance may impose monetary sanctions on organizations, receiving funding by the state, that render payment toward actions or events that undermine the "Jewish and democratic" nature of Israel, violate state symbols, or mark Israel's establishment as a "day of mourning." This law restricts criticism of the state generally and, more specifically, penalizes the commemoration of the Nakba—a seminal moment in the Palestinian historical narrative.

(b) Law Preventing Harm to the State of Israel by Means of Boycott (2011) ("Anti-Boycott Law"): Plaintiffs may bring civil lawsuits for tort damages against individuals who call for a boycott of Israel or of the territories under its control. This law is an attempt to suppress the calls of Palestinian civil society for an international boycott, as a means of non-violent and peaceful resistance, against violations of international law in Israel and/or the occupied territory.

(c) Law on Disclosure Obligations of Recipients of Support from Foreign Political Entities (pending) ("Anti-NGO Bill"): Past versions of this bill have sought variously to tax the donations to, prevent the registration of, or require special identification tags worn by entities critical of the state. The current version, as approved by the government, would require non-profits funded primarily by donations of foreign states to disclose their funding and status as "foreign state entities" in all public materials and in the minutes of meetings with public representatives. This law would effectively apply nearly exclusively to organizations, such as human rights groups, that are critical of Israel's treatment of Palestinian Arabs in Israel and the occupied territory.

*Hostile Rhetoric and Incitement*

4. The legislative effort behind the Anti-NGO Bill comes amid an intensifying discourse among the Israeli public and government that seeks to demonize civil society. Recently, the extra-parliamentary group Im Tirtzu launched a campaign that purports to expose various individuals, including activists and artists, as "moles" planted by foreign governments to enable Palestinian terrorism in Israel.[1] This sentiment is shared or supported by Israeli government

[1] *See, e.g.*, Im Tirtzu, *The Foreign Agents – Revealed!* (2015), https://www.youtube.com/watch?v=02u_J2C-Lso.

officials, who have also accused human rights groups of having ties with terror groups or being foreign agents.[2]

5. The cumulative effect of this discourse is to intimidate and incite against groups and individuals who monitor and advocate for human rights, particularly of Palestinian Arab citizens of Israel or residents of the occupied territory.

*Silencing Minority Voices*

6. Israeli authorities have seized the recent escalation of violence as an opportunity to suppress Palestinian Arab activists and organizations. In October 2015, approximately 100 Palestinian Arab citizens were arrested in connection with public demonstrations, on the fictitious charge of "organizing an illegal gathering with the intent to riot." In many cases, arrested individuals were not questioned or were released shortly thereafter, suggesting that these arrests had no factual or legal basis, but rather were done to prevent activists' participation in political demonstrations.

7. The most flagrant instance of this suppression was the November 2015 criminalization and closure, by administrative order, of the northern branch of the Islamic Movement in Israel and 20 allegedly affiliated organizations. On the basis of a draconian Emergency Law dating to the British Mandate of Palestine, with a non-transparent process for which judicial review is unhelpful and limited, Israeli authorities declared the Movement and the 20 organizations "terrorist" and/or "unlawful," closed their offices, and subjected their properties to confiscation.

*Analysis*

8. The aforementioned policies and practices of Israel violate both the letter and the spirit of international human rights law. Most notably, they either restrict, impede or threaten the freedoms of expression, association and religion.[3] However, they are also detrimental to the principles of equality and non-discrimination:[4]

(a) These laws or actions serve effectively to silence certain expression—or those who express it—on the basis of national origin (i.e., their nexus to the human rights concerns of Palestinian Arabs), religion (i.e., Islam, associated spuriously with terrorism), or political opinion (e.g., opposition to state policy).

(b) Accordingly, the stigmatization these national, religious or political minorities experience imparts a dignitary harm to them, indicating that their value and status under Israeli law are inferior and illegitimate. At its worst, this delegitimization may amount impermissibly to incitement to national, racial or religious hatred, discrimination and violence.[5]

9. Though these efforts to suppress activists and human rights groups are human rights violations in and of themselves, they also perpetuate additional abuses. Because of the relative neglect with which the state has treated the Palestinian Arab minority, civil society groups have had to provide for the social, economic and cultural rights of the impoverished Arab community. Attempts to shut down these groups deprive the Palestinian Arab minority of the few services and resources left available to them.

10. Moreover, the organizations and individuals most harmed by Israel's repressive tactics are human rights defenders, often targeted because of the nature of their activities, their pursuit of justice in international fora, or their receipt of foreign funding. This hostility contradicts the international standards set by the U.N. Declaration on Human Rights Defenders, which affirms the rights of individuals and groups to conduct human rights work, to peaceably assemble, to oppose acts of the state, to engage with international bodies and to receive resources from abroad.[6] Not only has Israel

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[2] *See, e.g.*, Itamar Eichner, *Israel to E.U.: Halt Funding of NGOs Working Against Us*, YNET NEWS (Jul. 21, 2015), http://www.ynetnews.com/articles/0,7340,L-4682691,00.html.

[3] International Covenant on Civil and Political Rights arts. 18, 19, 21.

[4] *Id.* at arts. 2, 26.

[5] *Id.* at art. 20(2).

[6] *See Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, arts. 1, 5, 9, 12, 13, U.N. Doc. A/RES/53/144 (1999).

failed to uphold its duty to promote these rights and to protect defenders from adverse discrimination,[7] but it has also taken active steps against defenders' rights and encouraged similar hostility by third parties. This hostile climate impedes the monitoring and advocacy activities of human rights defenders, whose work is needed today more than ever.

11. Lastly, the HRA cautions that these censorial measures, which are allegedly intended to protect Israel's security, are in fact counter-productive. The increasingly shrinking space for Palestinian civil society can only inflame tensions at a time when peace and stability have already deteriorated. Critical dissent is not only a necessary and healthy aspect of a genuine democratic framework; it is also a channel through which non-violent change can be attempted. The disenfranchisement and deprivation of civil society threatens to encourage further violence in a region that is fraught with it. And the exemplary value of the rule of law and human rights is undermined by Israel's attempt, as a relatively developed member State of the international community, to suppress the voices of the marginalized Arab minority and the people who defend them.

12. On the basis of the above, the HRA urges the Council to:

- Take a clear and definitive position on the centrality of civil society—even and especially of minority and dissenting voices—in the international effort to seek peace, stability, security and the rule of law;

- Condemn Israeli policies that silence or suppress the activities of Palestinian Arab civil society, particularly human rights defenders;

- Call upon Israel to cease immediately its practices that hamper human rights, to provide adequate remedy for deprivations thereof, and to adopt into its policies the standards set forth by the Declaration on Human Rights Defenders;

- Reiterate the necessity of Israel to incorporate explicitly into its laws the freedom of speech and association and the principles of equality and non-discrimination.

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[7] *See id.* at arts. 2, 12.